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To: Governor Jim Doyle
Members of the Legislature
Long Term Care Policymakers
Interested Parties

Fr: George F. Potaracke, Executive Director

Re: Public Policy Discussion Paper on Nursing Homes

The Board on Aging and Long Term Care is pleased to share with you a white paper entitled "Nursing Homes and Public Policy"

BOALTC has developed this document after considerable reflection on the status of institutional care for frail older persons in Wisconsin. Significant systemic changes are underway as private developers try to respond to the public's desire for more integrated housing with long-term care service options.

Never before has an industry of human services been in such flux. For nursing homes in particular, some correlation might be drawn from the advent of Medical Assistance in 1965 that spurred a breath-taking expansion of this industry for the next two decades.

It would appear that the zenith of this form of residential long-term care has been reached. Only ten years ago many health care economists were predicting huge increased demands for nursing home beds. But the exact opposite is occurring. Many forces are in play causing this significant contraction.

This paper explores the unique interests and responsibilities of the three major players: consumers, the nursing home industry, and state government. The Board issues "Nursing Homes and Public Policy" at this time not so much to declare a formula for strategic planning, but rather to pose a series of questions for all three stakeholders. Several recommendations are offered to generate public debate.

The Board on Aging and Long Term Care is hopeful this will lead to a more thoughtful plan for the future of institutional care as Wisconsin further develops a community-based system for long-term care services.

Nursing Homes and Public Policy

July 2003

Developed by the Wisconsin Board on Aging and Long Term Care

The role of the modern day nursing home is being debated within the context of a rapidly changing market, consumer expectations, and government's ability to pay for this level of care. We see closures of long existing facilities around the state, but particularly in the Milwaukee metropolitan area. Homes with traditionally higher rates of occupancy by residents who rely upon Medicaid to pay for their care are predictably more likely to shut their doors. The gap between the Medicaid daily rate of payment and the rate, which the private pay-resident is expected to spend for nursing home care, is getting wider each year. Bankruptcy is becoming commonplace among larger corporate holdings. Heavy debt load brought on by earlier speculative buy-ups causes great strain to daily nursing home operations.

To some extent market forces have been brought to bear on long-term care facilities. While no one ever looked forward to moving into a nursing home, for decades it was the only alternative to receiving support from family in the person's own home. That scene has changed drastically over the past 20 years. A full spectrum of supportive community-based care is now a part of today's long-term care system. Well, almost. The array of services still varies from one part of the state to another; and access to those services is not uniform. And those who will rely upon public payment for care remain disadvantaged. Even access to nursing home care (certainly choice of facility) is not always readily available for the poorer consumer.

Private enterprise has responded to this shift towards community care and away from institutions by building and developing other living arrangements, including assisted living group homes and apartments with available support services. This explains some of the willingness by nursing home operators to close their doors as their attentions are directed elsewhere. Even county governments are moving away from their 150-year history of providing institutional care.

State government is deeply in debt. The Medicaid program is one of the state's largest expenditures, and nursing home care is the largest obligation within this part of the state budget. Very modest inflationary adjustments in payment to homes translate to annual multi-million dollar budget increases. To slow those rising costs government began investing in community-based systems some 20 years ago. Consumers and their advocates are pleased. The market has shifted gears and now embraces assisted living.

Where do these immense changes leave today's nursing homes and the consumers who will depend upon them? A further examination is desperately needed to guide public policy for the next 10 or 20 years relating to a legitimate role for the modern nursing home. What are the expectations of tomorrow's nursing home resident? What is she willing to pay for? Is the private market willing to respond? And as the major payer for this care what can state government contribute toward assuring a quality service for the consumer and a sound purchase for the taxpayer?

CONSUMERS' EXPECTATIONS

Residents and prospective residents of today's nursing homes expect, first and foremost, a safe place in which they can receive expert, competent medical and nursing services. It is anticipated that the care available in these settings will be superior to that available through in-home providers and will have the widest variety of possible alternatives. Notwithstanding the expectation of many in the consuming public, the last twenty years have seen a remarkable improvement in the overall quality and availability of community based services. Although the quality of community-based services in many regions has improved, there remains no guarantee of service variety and quality between the different types of providers. Further, regulation of in-home and other community services is minimal by comparison to nursing homes.

In nursing homes, there is a pronounced gap between the rate of payment by residents who finance their care privately and those who rely on government sources. Residents and their families are frequently completely unaware that this disparity exists, due in large part to the requirement by regulation that there be no differential in the quality and availability of basic services. The difference in reimbursement has required facilities to engage in "cost-shifting" which adds to the cost to private pay residents to make up for the lack of complete reimbursement by government for the care of residents using Medical Assistance. This necessarily leads to the question of whether, as the proportion of private pay residents decreases in relation to the MA residents, there will be a "critical point" at which no facility can remain fiscally sound.

Consumers tend to exercise only minimal choice in the selection of the details of their care. The choice of a long term care provider, and of particular services, therapeutics, and procedures remains most frequently influenced by families, guardians and physicians. This results largely from the consumer's (and, often, the family's or surrogate's) lack of understanding of the services offered and lack of sufficient time to choose from the available options. Concerns about quality and safety are often ignored or unnoticed. A substantial weakness is obvious in the case of residents who are summarily discharged from acute care settings with minimal discharge planning. The lack of effective intervention and information at the time of discharge can result in inappropriate or even dangerous long-term care placements.

As a general rule, it can be said that nursing homes do meet the expectations of most consumers. This is primarily a factor of the lack of awareness by the consumers of the alternatives available to the care that is offered and to the quality of services that ought to be expected. The single greatest failure in this area is where the family anticipates that the resident will rehabilitate and go home, but discover that the facility cannot meet the expectation.

As with other commodities the purchasing public benefits from ease in "shopping" for long-term care services. Having one source for high quality information gives the customer a leg-up in making wise choices. Family Care, with its well-developed resource centers, is proving itself able to fill the gap left by earlier attempts to restructure long-term care systems.

Sadly lacking from the consumers' contribution to the system is the willingness of many residents and families to become self-activist consumers. They are content to accept or too weak to complain about sub-optimal care and fail even to inquire into the quality of care that should be being delivered. Comparison shopping for the best cost-quality ratio is necessary as is consideration in advance of appropriate insurance instruments to defray costs and forestall the need for government assistance programs that tend to, in some ways, limit choices as a means to finance care.

NURSING HOMES' RESPONSIBILITY

It is our considered belief that nursing homes should begin to focus their energies and resources toward meeting the sub-acute needs of future residents. Strategies are needed to achieve maximum effectiveness in the use of professional staff along with increased early application of discharge planning efforts. At the foundation of the facilities' approach should be an expectation that most residents will, indeed, be discharged to a less medically intense setting. Because community-based alternatives abound for most conditions, nursing homes should anticipate long-term stays only for residents with end-stage conditions, including dementia.

State and federal governments, representing the expectation of the public, have established standards for quality and availability of services in nursing homes. Payment under government programs is conditioned on maintaining the individual facility in a condition that meets these standards and payment should be (and should be expected to be) withheld where the standards are unmet.

Similarly, the requirements of state and federal law imply that any applicant for admission should be considered without regard to the source of payment for the individual's care other than the ability of the facility to provide that care. It is our belief that the ability to make a profit on the anticipated reimbursement is not a determinant factor in deciding whether or not a facility can provide care. The skills, training, and availability of staff as well as the physical characteristics of the facility determine that ability. While a facility certainly must seek to operate in a business-like fashion that will not lead to fiscal failure, extraordinary revenue in excess of expense figures are inappropriate.

The Board on Aging and Long Term Care finds that, in general, most direct care workers in the nursing home industry are dedicated to providing quality care to the residents of their facilities. However, there are as yet unanswered questions about the dedication of the corporate institutions that have become involved in the ownership and management of the industry over the previous ten or fifteen years to this goal. It is easy to imagine the difficulty involved in changing the internal focus and attitude of a corporate board to reduce the emphasis on the profit motive in favor of an increased concern for the health, welfare and safety of individual residents of a nursing home owned by the corporation. Still, this is exactly what needs to happen if the standards of quality are to be met in these facilities.

GOVERNMENT'S ROLE

The state does have a significant interest in assuring that long-term care is readily available to all citizens and is provided according to accepted standards of quality. The contractual nature of the relationship between the state as a payer and the nursing home as the provider demands that each meet the terms and conditions of the agreement, specifically in relation to the level and quality of care delivered to the resident. All specifics of the nursing home regulations are written as a part of the agreement between these parties and a breach in the form of any failure to perform as required should result in sanction.

The state has, for some time, used a purchasing philosophy for medical services under the Medicaid Program that focuses on an economic principle of "the prudent buyer." This, in essence, requires the state to provide payment for services that meet a basic minimum standard of care rather than seeking to match most appropriate services with the needs of the beneficiary. It is this agency's considered opinion that the state should cease to operate using a "prudent buyer" philosophy when crafting reimbursement standards, requirements, and procedures in favor of a different system that will take into account the specific needs and clinical requirements of the client and reimburses providers accordingly. The current system is, in large part, a cause of the fiscal difficulties encountered by providers and, if left unchanged, will continue to be an obstacle to efficient and high-quality care.

Nursing homes must continue to be a part of the overall long-term care system. There is not likely to ever be a time when some form of medical model long-term care is not needed for certain specific persons.

The nursing home industry has had difficulty adjusting to the rapid and widespread movement by corporations into the system. Crossing state lines in order to acquire new facilities, the actual identities of some corporate owners have been obscured to the detriment of consumers, regulators and the taxpayers who are often footing the bill for care. The Board on Aging and Long Term Care has advanced the basics of a proposal that would place new disclosure requirements and minimum standards of performance on the financial and regulatory compliance histories of corporate owners of facilities in Wisconsin. It is our expectation that assurance by the state that only responsible owners and operators are permitted to operate facilities here will work to the betterment of the service available to all.

As a final consideration, we believe that Wisconsin should investigate the feasibility and potential benefits of entering into a cooperative arrangement with the insurance industry as a means to provide for long-term care financing in addition to the Medical Assistance program. As an alternative, the state has substantial experience in acting as an insurer through both the HIRSP program and the State Life Insurance Program and would be able, if properly authorized by the Legislature, to create a Wisconsin-specific long-term care insurance program to relieve the MA burden.

Recommendations

- Re-focus nursing home care toward rehabilitation and sub-acute care in all but specified circumstances such as dementia, brain injury and terminal illness.

- Enhance and assure distribution of community-based services as an alternative.

- Empower consumers to act as self-advocates.

- Improve public education on the issues of long-term care financing.

- Strengthen the requirements for effective discharge planning and providing consumers with a choice of service options. Family Care is such a vehicle.

- Emphasize the potential value of private long-term care insurance as a means to finance care. Examine the feasibility of state participation in the long-term care insurance industry, either in a cooperative relationship with private insurers or as a separate insurer.

- Redirect the State's approach to funding long-term care. The State should more directly link quality, consistency and safety in nursing homes to the publicly financed reimbursement mechanism.

- The State should have a more intimate knowledge of the corporate structure of nursing home operations as a means to afford early identification and intervention in situations where corporate fiscal and quality problems threaten the safety and well being of residents.